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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,948	12/05/2001	Kurtis Paul Longnecker	AUS920010641US1	7801
35525	7590	10/20/2004	EXAMINER	
IBM CORP (YA)			CABRERA, ZOILA E	
C/O YEE & ASSOCIATES PC			ART UNIT	
P.O. BOX 802333			PAPER NUMBER	
DALLAS, TX 75380			2125	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CLIENT DOCKET INFORMATION

Client Name AUS920010641US1

File No. _____

DATE	ACTION DOCKETED
11/22/04	REDA

Docketed By duf Date 10.28.04

Checked By duf Date 11.02.04

Attorney Initials duf Date 11.02.04

Office Action Summary	Application No.	Applicant(s)	
	10/004,948	LONGNECKER ET AL.	
	Examiner	Art Unit	
	Zoila E. Cabrera	2125	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 27 July 2004.

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1,2,5-9,12-16,19-23 and 26-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1,2,5-9,12-16,19-23 and 26-36 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date <u>10/14/04</u> 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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DETAILED ACTION

Final Rejection

1. Claims 3-4, 10-11, 17-18 and 24-25 have been cancelled.

Claim 1-2, 5-9, 12-16, 19-23, 26-36 are remained for consideration.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5, 7, 8-9, 12, 14, 15-16, 19, 21, 22-23 and 26, 28 are rejected under 35 U.S.C. 102(e) as anticipated by O'Sullivan et al. (2003/0065758) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Flansburg et al (US 6,393,432).

Regarding Claims 1, 8, 15 and 22 O'Sullivan discloses a method, a computer program product and a system for producing a drawing of components and connections needed to implement a desired system, comprising:

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- receiving user needs of the desired system, wherein the user needs describe specified capabilities and performance requirements of the desired system and do not provide schematic details for the desired system, and wherein the desired system is a computer network; (Page 2, [0027] lines 1-13; [0025], lines 4-6; [0024]); automatically determining components and connections needed to implement a system that satisfies the user needs based on the specified capabilities and performance requirements of the desired system and application of one or more system design rules to the specified capabilities and performance requirements of the desired system; (Page 2, [0030]; [0032] – [0033]); generating a drawing program input that provides instructions for producing a drawing of the system that satisfies the user needs using the determined components and connections to produce schematic details for the system (Fig. 2); and sending the drawing program input to a drawing program to generate a graphical output of the schematic details for the system (Fig. 2; [0028]).

O'Sullivan discloses a method for designing network interconnect fabric and interconnection modules that is adaptable to be used as a computer-aided design tool for networks (Page 1, [0009], lines 1-3; Page 2, [0028], please note that any computer-aided design tool would include a drawing program). However, O'Sullivan does not *specifically* disclose a drawing program. But Flansburg discloses a drawing program used in network designs (Col. 5, lines 9-11 and lines 18-21; Col. 2, lines 10-18). Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the method for designing a network of

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O'Sullivan with the method of **Flansburg** because it would provide an improved system wherein the user is allowed to create, edit, store and distribute graphical diagrams of logical network layouts (Abstract, lines 8-10).

As for claims 2, 5, 7, 9, 12, 14, 16, 19, 21, 23 and 26, **O'Sullivan** further discloses:

- providing at least one graphical user interface for receiving the user needs of the desired system (Fig. 1, element 105);
- generating, with the drawing program, the drawing of the desired system (Fig. 2);
- determining components and connections needed to implement the system that satisfies the user needs comprises referencing a set of policies that must be satisfied in order for the desired system to function properly (Page 5, [0055]).

As for claims 29-30, 31-32, 33-34, and 35-36, **O'Sullivan** discloses:

- the specified capabilities and performance requirements of the desired system comprise at least one of a computer network design type, customer information, geographic load balancing information, firewall configuration information, network connectivity information, server configuration information, application configuration information, database configuration information, data backup capacity information, load balancing information, and an environment type (Fig. 2; Fig. 10; Page 1, [0009]; [0023]);
- determining an estimated cost to implement the system; and presenting a budget and planning estimate to a user based on the estimated cost (Page 4, [0047] [0048], line 15 to [0049]; Fig. 6, steps 620 -630).

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3. Claims 6, 13, 20 and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over **O'Sullivan et al. (2003/0065758)**.

As for claims 6, 13, 20 and 27, **O'Sullivan** discloses the limitations of claims 1, 8, 15 and 22. **O'Sullivan** does not disclose that the system is to implement a web hosting. However, **O'Sullivan** discloses that his invention is applicable to any network that comprises source nodes and target nodes connected by a number of communication links (Page 2, [0023], lines 3-6). Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to use the method for designing any network of **O'Sullivan** and implement such method for a web hosting because it would provide an automated method for designing networks that develops cost-effective design of interconnection fabrics by seeking low cost while simultaneously satisfying network performance requirements (Page 1, [0008]).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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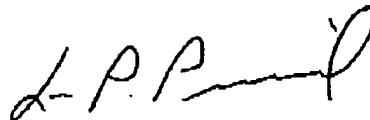
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (703) 306-4768. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (703) 308-0538. Additionally, the fax phones for Art Unit 2125 are (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Zoila Cabrera
Patent Examiner
10/15/04



LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Notice of References CitedApplication/Control No.
10/004,948Applicant(s)/Patent Under
Reexamination
LONGNECKER ET AL.Examiner
Zolla E. CabreraArt Unit
2125

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U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,393,432	05-2002	Flansburg et al.	707/104.1
	B	US-2003/0065758	04-2003	O'Sullivan et al.	709/223
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office
 PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20041014

Interview Summary	Application No.		Applicant(s)	
	10/004,948		LONGNECKER ET AL.	
	Examiner		Art Unit	
	Zoila E. Cabrera		2125	

All participants (applicant, applicant's representative, PTO personnel):

(1) Zoila E. Cabrera. (3) _____

(2) Steve Walder. (4) _____

Date of Interview: 13 July 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 1, 8, 15 and 22.

Identification of prior art discussed: _____

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Walder proposed to further limit the independent claims to include that the system is a web hosting system or a computer system in the proposed amendment of June 11, 2004. Examiner will require to do a further search.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135, (35 U.S.C. 132).

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.